IN THE HIGH COURT OF JUDICATURE OF BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGEMENT NO. 68 OF 2004

IN

SUMMARY SUIT NO. 3828 OF 2003

Mrs.Bansawara Syntex Ltd. .. Plaintiff

versus

Mr.Jayantilal Jain .. Defendant

...

Mr.Archit Jaykar i/b Khaitan & Jaykar for the plaintiff.

Ms.Rohini Kotian i/b S.C. Jodhavat for the defendant.

CORAM : D.G. KARNIK,J.

DATED : 21st February 2005.

P.C.:

1. Heard the learned counsel for the parties.

2. The plaintiff has filed this suit for recovery

of the value of the goods allegedly supplied to the defendant under four invoices (Exhibit-A to D to the plaint). The goods are alleged to have supplied to the defendant under four delivery challan (Exhibit-E to G to the plaint)

3. The defendant,by filing an affidavit in reply, has denied having placed any order on the plaintiff and has also denied having received any goods. The defendant has denied his signatures on the delivery challans. Despite the specific denial and despite filing affidavit in rejoinder, the plaintiff has not stated the name of the person who has allegedly signed on the delivery challans. The defendant has further stated that he never carried on business in the name and style of "Sneh Synthetics" but carries on business in the name and style of "Sneha Synthetics". The rubber stamp is not of "Sneha Synthetics". There are no signatures on two of the delivery challans and two of the signatures are not identifiable and plaintiffs have not stated whose signatures they are. In the circumstances and in view of the total denial by the defendant of having placed the order and of having received the goods, the plaintiff would be required to prove the delivery

of the goods at trial. The defence ex-facie cannot be said to be frivolous or sham.

4. In the circumstances, the defendant is granted unconditional leave to defend the suit. The suit shall transferred to the list of commercial causes. The defendant to file written statement within a period of four weeks.

D.G. KARNIK, J